

**Burlington Development Review Board**  
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*Austin Hart, Chair*  
*Jim Drummond*  
*Michael Long*  
*Brad Rabinowitz*  
*Kevin Stapleton*  
*Jonathan Stevens*  
*Bob Schwartz*  
*Oscar Hernandez, (alternate)*  
*Vacant, (alternate)*



**Burlington Development Review Board**  
**Findings of Fact**  
**Deliberative Hearing Monday, April 15, 2013;**  
**Reconsideration of Conditions #8 and 29, Deliberative hearing Monday June 24, 2013.**

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**Board Members Present:** Austin Hart, Michael Long, Brad Rabinowitz, Bob Schwartz, Ali Zipparo, Jim Drummond.

**Staff members present:** Ken Lerner, Mary O'Neil.

**File:** ZP 13-0650CA/MA

**Location:** 110 Riverside Avenue

**Zone:** Neighborhood Activity Center, Riverside Corridor (NAC-R) **Ward:** 1

**Date application accepted:** December 20, 2012

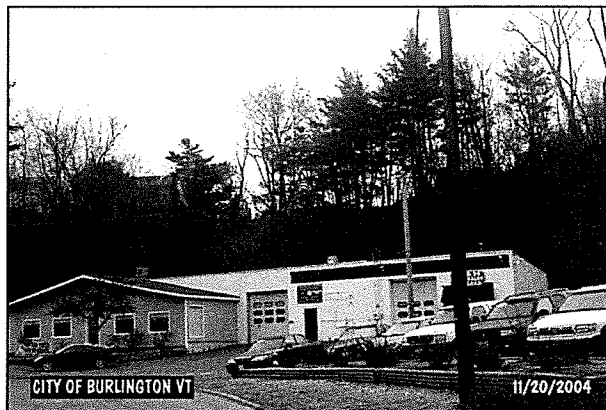
**First Review by DRB:** February 20, 2013

**Phase I Environmental Site Assessment submitted:**  
March 11, 2013

**Reconsideration of Conditions #8 and #29:** Public hearing June 18, 2013.

**Applicant/ Owner:** Steve Guild Design / Brothers and Sisters (Joe Handy)

**Request:** Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 (one and two bedroom) unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing.



**Background:**

- **ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN;** 4' x 6' parallel sign for M & H Auto. Approved August 2004.
- **Zoning Permit 04-314;** Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. Approved January 2004.
- **Zoning Permit 01-318 / COA 097-029;** Installation of a new non illuminated parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362;** Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.

- **Zoning Permit 99-419 / COA 097-029B**; Installation of a non illuminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C**; Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029**; replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B**; Change of use from retail (see COA 97-029) to used car sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A**; Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.
- **Zoning Permit 97-274 / 097-029**; Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031**; one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199**; Convert building to auto body shop; minor exterior work. Approved January 1988.
- **Zoning Permit 87-746 / COA 87-199A**; install one sign. Approved April 1988.
- **Zoning Permit 85-491**; construct a chain fence 4' to run along the west boundary of the property. Approved October 1985.
- **Zoning Permit 84-446 / COA 84-118**; Remove front wall of plate glass and replace with 2 x 6 frame, insulate and finish exterior with vinyl siding. Install thermopane picture window. Approved September 1984.
- **Zoning Permit 84-328 / COA 84-088**; construct 30 x 30' one story building to be used as a repair shop to replace a building of the same size and use that was destroyed by fire 4 months previous. Approved July 1984.
- **Zoning Permit 82-546**; parallel sign for "First Quality Carpets." Approved December 1982.
- **Zoning Permit 82-525**; To establish a floor covering and home decoration store. Prior use was a furniture store. Approved December 1982.
- **Zoning Permit 82-344 / COA 82-75**; Change pitch of roof. July 1982.
- **Zoning Permit 82-337 / COA 82-73**; establish use as a building supply and material retail outlet – dealing in hot tubs and plumbing fixtures for residential installation. 1000 sq ft devoted to retail use. Approved July 1982.
- **Zoning Permit 81-292**; Change of use from automobile retail business into a furniture retail business. No structural alterations. Approved December 1980.
- **Zoning Permit 78-162**; Used car sales, service and repair. Build partitions and 3 phase electric power in order to create car painting stalls in existing large garage. No additional coverage. Paint shop presently exists in the small garage at 110 Riverside. Issued October 1978.
- **Zoning Permit 75-891?** ; Erect a pylon sign flat against the building. May 1975.

- **Zoning Permit**, erect a 30' x 60' addition on the north side of the existing garage and remodel the front of the showroom. Issued August 1971.

**Overview:** The applicant wishes to raze all buildings on this corner site and develop a multi-story residential building (original request at Sketch Plan Review was for 64-66 units; now set at 57) with 61 parking spaces, 49 of those provided under the building and 12 more on a small surface lot. 25% of the units (14) are intended to be low to moderate income Senior Housing to qualify for the additional height bonus.

The **Conservation Board** reviewed the application at their January 7, 2013 meeting, and voted to recommend approval, conditioned upon completion of a Phase II Environmental Site Assessment (ESA.)

The **Design Advisory Board** reviewed the application at their January 8, 2013 meeting. The DAB voted to recommend approval, with the following recommendations:

1. The Design Advisory Board supports clad, aluminum or fiberglass windows rather than vinyl windows.
2. The DAB recommends vertical or horizontal metal or hardiplank siding rather than vinyl. The DAB would allow a split for materials, with vinyl acceptable on the rear; although this board encourages continuity around all elevations in material.
3. Wrap outside corners (brick returns) to front of balcony.
4. Metal porch railings rather than composite/vinyl.
5. Encourage conduit for future solar option.
6. Keep brick details on outside corners as presented on renderings.
7. Provide a security gate for front garage opening.
8. Environmental Site Assessment to be provided as per condition of Conservation Board.
9. Bike parking supported as proposed. Encouragement to keep bike lockers, as they deter theft.
10. Lighting plan has been submitted electronically. To be reviewed by staff.
11. Landscaping plan has been submitted electronically. To be reviewed by staff.
12. Submission of any other plan as required for review prior to DRB.

**Evidence Presented:**

The Board examined the materials submitted in support of this request.

**I. Minutes**

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

**II. Motion by Austin Hart:**

I move that the Board **approve** the application and adopt the following findings and conditions.

**III. Findings**

**Article 3: Applications, Permits, and Project Reviews**

**Section 3.2.4 (a) Fees**

*Application fees are based on the estimated fair market value of the construction costs for the type and scope of site improvements and construction being proposed. This is not the actual cost to the applicant. Applicants may be required by the administrative officer to document any fees calculated based on the estimated cost of construction in accordance with the most recent publication of the RS Means Construction Cost Estimation catalogue or equivalent.*

The applicant has provided an estimated construction cost as \$3,500,000. Project plan review by the Assessor's office places the rough estimated cost at \$5,500,000 for the four story wood frame building, which significantly differs from the submitted figure. The applicant shall submit documentation to satisfy concern about this discrepancy in cost estimation, or to provide a more accurate figure upon which to base application and development review fees, as well as a reporting figure for new construction investment within the city. **Affirmative finding if conditioned.**

### **Part 3: Section 3.3.2 Impact Fees: Applicability**

*Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Sec. 3.3.4.*

Impact fees will be assessed for the gross new floor area, with a credit for the existing square footage currently associated with the automobile service use.

As submitted, the estimated Impact Fee calculation:

Information provided 1/10/2013,  
email from Steve Guild to Mary  
O'Neil:

SF of Project **88,772**

	<u>Residential</u>	
Department	Rate	Fee
Traffic	0.182	16,156.50
Fire	0.208	18,464.58
Police	0.042	3,728.42
Parks	0.696	61,785.31
Library	0.431	38,260.73
Schools	0.900	79,894.80
<b>Total</b>	<b>2.459</b>	<b>\$ 218,290.34</b>

### **Credit for existing service use:**

13666 sq. ft. gross  
area

	<u>Offices &amp; Other</u>	
Department	Rate	Fee
Traffic	0.634	8,664.24
Fire	0.186	2,541.88

Police	0.329	4,496.11
Parks	0.392	5,357.07
Library	0.000	0.00
Schools	0.000	0.00
<b>Total</b>	<b>1.541</b>	<b>21,059.30</b>

**Estimated Impact Fee Due: 197,231.04**

**Total Fee:** **\$197,231.04**  
 Allocator for  
 department

	<b>Residential</b>	
<b>Department</b>	<b>Rate</b>	<b>Fee</b>
Traffic	0.182	\$ 14,597.82
Fire	0.208	\$ 16,683.23
Police	0.042	\$ 3,368.73
Parks	0.696	\$ 55,824.65
Library	0.431	\$ 34,569.57
Schools	0.900	\$ 72,187.04
<b>Total</b>	<b>2.459</b>	<b>\$ 197,231.04</b>

### **Article 3.3.3 Exemptions and Waivers**

#### **(a) Exemptions**

No exemptions appear to apply. Any waiver may be linked to:

#### **Sec. 3.3.3 (c) Affordable Housing Waivers**

*Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3) below are eligible for a waiver of impact fees for that portion of the project. The terms, rules and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9).*

The applicability of any waiver of Impact Fees shall be determined by the Housing Officer in the Community and Economic Development Office. Any such waiver, if determined, will be provided to staff (with the associated square foot measurement) so as to correct the calculated impact fee assessment.

**Affirmative finding if conditioned.**

#### **Sec. 3.3.7 Time and Place of Payment**

*Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:*

- (a) *New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof. **Affirmative finding as conditioned.***

#### **Part 4: Site Plan and Design Review**

- (a) **Site Plan Review, and**
- (b) **Design Review** will both be applicable for this project.

#### **Section 3.4.3 Submission Requirements**

*In addition to the applicable application and submission requirements pursuant to Sec. 3.2.2, all applications for a zoning permit subject to Site Plan and/or Design Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable development principles and standards found in Article 6.*

Given the historic use of the property for many decades as an automotive service center, it is appropriate to investigate the health of this particular parcel further prior to development. A Phase I Environmental Assessment (ESA) and a Phase II are warranted to both discern if there remains any residual contamination that requires corrective action and to determine the disposition of known underground storage tanks (USTs). The applicant has submitted a Phase I study, which has not yet been reviewed by the Vermont Department of Environmental Conservation. **Affirmative finding as conditioned.**

#### **Part 5: Conditional Use and Major Impact Review**

##### **Sec. 3.5.2 Applicability**

##### **(b) Major Impact Review**

1. *The construction or substantial rehabilitation of five (5) or more dwelling units or the creation through adaptive reuse/conversion of ten (10) or more dwelling units.*

The development proposes 57 new residential units. Therefore, Major Impact Review is required.

##### **Sec. 3.5.6 Review Criteria**

##### **(c) Major Impact Review Standards:**

1. *Not result in undue water, air or noise pollution;*

110 Riverside Avenue was originally mis-identified as Site #94-1733 by the Vermont Department of Environmental Conservation. In an email of January 16, 2013, DEC acknowledges the error, but notes the following:

*There are other significant potential environmental issues with 110 Riverside property too. It was a filling station at one time and had at least 3 gasoline underground storage tanks and a few garage bays for auto repairs (likely with floor drains and/or mechanics pits and associated dry wells or other subsurface drainage appurtenances.) From photographs taken from a UVM archive site, it is apparent that the dispenser pumps are not all located just above the tanks – expanding the areas for potential onsite releases.*

While the construction of new residential dwelling units does not immediately trigger alarm, the previous use as commercial / car repair coupled with the expressed concern of the Department of Environmental Conservation warrants attention. At present, there exists the potential for significant soil contamination, which would have an impact on appropriate soil disturbance as well as storm and groundwater. A Phase I Environmental Site Assessment was submitted to staff March 11, 2013, and the Executive Summary indicates “recognized and historic environmental conditions.” A Phase II is warranted to fully understand



the site conditions and to actively pursue a clean-up as recommended by the Conservation Board (and if deemed appropriate by the Department of Environmental Conservation.) **Affirmative finding as conditioned.**

2. *Have sufficient water available for its needs;*

A letter dated November 12, 2012 from Burlington's Department of Public Works informs that Burlington's water and wastewater treatment facilities have sufficient capacity to handle demand associated with the proposed apartment building. **Affirmative finding.**

3. *Not unreasonably burden the city's present or future water supply or distribution system;*  
See comment above.

4. *Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;*

This is a challenging site, which rises approximately 60' from front to rear. The applicant has supplied engineered plans to demonstrate avoidance of bank disturbance and the ability to develop the site without adversely impacting the rear embankment. An erosion prevention and sediment control plan has been submitted and has been subject to review by the Conservation Board and the Stormwater Administrator. The Conservation Board has accepted the development plan subject to Phase II site evaluation; however this condition was imposed with the understanding that this was a state-listed contaminated site. The Department of Environmental Conservation has since made a correction about the mis-identification of this site but remains concerned due to the long history of automotive repairs. A Phase I study raises concern about likely site contamination due to previous and historic use.

Any zoning permit will be conditioned upon approval by the City Stormwater Administrator (for stormwater management and the EPSC) and the Department of Environmental Conservation.

**Affirmative finding as conditioned.**

5. *Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;*

Representatives from the Department of Public Works indicated at Technical Review that a **traffic study** will be required for development of this site. Revised plans provide this estimate:

ITE Trip Generation, 8<sup>th</sup> edition provides the following estimates for apartments (applied to this proposal):

Weekday: 379 trips  
AM Peak (7:30-8:30 am) - 32 trips (6 entering, 26 exiting)  
PM Peak (4:30 - 5:30 pm) - 49 trips (32 entering, 17 exiting)

There had been little analysis of how pedestrians can move from this site. While there are bicycle lanes on both sides of Riverside Avenue, there is no crosswalk, and sidewalk linkage is on the other side of the road (as is a public park.) The nearest crosswalk is at Hillside Terrace, approximately 1988 feet to the west. It is not clear how a resident pedestrian will accomplish a trip toward Winooski.

A sidewalk is proposed on the ROW in front of this development; however it will terminate at the boundary line.

The plans were forwarded to the City traffic engineer for an assessment; he has submitted these comments:

- We would like to see a sight distance analysis included in the traffic analysis
- As per parking ordinance, the developer is required to provide bicycle parking (I don't know if they are proposing it, but didn't see it in the site plan).



- Is it necessary to have bi-directional traffic in both driveways? It could be beneficial to have one driveway for entering traffic and one for exiting (to minimize conflicts along riverside)
- Is there any sense of the volume of traffic into the existing site, to better assess what the incremental traffic impact is?
- Please include the queues at the Colchester Avenue intersection as part of the analysis
- Make sure there is adequate lighting next to the driveways (for pedestrian safety)
- The site is somewhat isolated and not properly connected to the sidewalk network. While there is sidewalk directly in front of the site, pedestrians heading towards Colchester Avenue don't have a reasonable option to cross Riverside Avenue and use the existing sidewalk or the shared use path. One option would be to provide some type of mid-block crossing (with rapid flashing beacons or a hawk signal). This requires a detailed analysis to assess the safest location and features of the crosswalk.

A City of Burlington Traffic Engineer presented information, concerns and potential solutions at the March 19, 2013 DRB hearing.

The applicant returned with a more robust traffic report, with a traffic engineer for the April 2, 2013 DRB hearing.

In response to questions raised at the first public hearing, the applicant's modified circulation plan included a right-turn only into the garage at the western curb cut. The applicant also proposed a modified pedestrian crossing across Riverside Avenue with warning lights to slow traffic. The warning lights are not sufficient to provide a safe pedestrian route across Riverside Avenue to the sidewalk on the far side. The applicant, with DPW's approval, must install either a pedestrian-activated stoplight/crosswalk or the continuation of the sidewalk from this site along the southerly side of Riverside Avenue to the intersection of Colchester Avenue. Additionally, the board accepts the recommendation that the garage security gate be left open during the day to prevent traffic queues; but permitted to remain closed and activated by residents during the evening hours. **Affirmative finding as conditioned.**

6. *Not cause an unreasonable burden on the city's ability to provide educational services;* Staff made initial inquiries and repeated notifications to the school district when the plan came for sketch plan review, and has forwarded information as the project progresses through review. The school department continues to be interested in the number of bedrooms and overall units, although impact should be somewhat ameliorated given the 14 units dedicated to Senior Housing. In any event, required Impact Fees should off-set any new demand on city educational services. **Affirmative finding as conditioned.**

7. *Not place an unreasonable burden on the city's ability to provide municipal services;* Letters of sufficient water supply and wastewater capacity have been submitted from the Department of Public Works. A State Wastewater Permit will be required as well. Required impact fees will address other service demands. **Affirmative finding as conditioned.**

8. *Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area of any part of the city;* This site is not identified as having irreplaceable historic or archaeological merit; however the steep embankment at the rear is a concern with the large development proposed. The application includes



information addressing specific site disturbance with engineered studies to accompany the request.

**Affirmative finding.**

9. *Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;*

This is a developed lot. A letter of supply has been provided from the Department of Public Works to address water capacity; it is understood that water pressure issues will be resolved during site development by the applicant. The applicant is encouraged to work with engineering staff from the Department of Public Works to address and remedy any deficiencies relative to public water pressure/supply infrastructure. **Affirmative finding.**

10. *Be in substantial conformance with the city's municipal development plan and all incorporated plans;*

The Municipal Development Plan includes the following policies that are in sync with this development proposal:

- *Target new and higher density development into the Downtown, Downtown Waterfront, Enterprise District, Institutional Core Campuses, and the Neighborhood Activity Centers. (Page 1-2.)*
- *Encourage the adaptive reuse and historically sensitive redevelopment of underutilized sites and buildings (Page 1-2.)*
- *Re: Neighborhood Activity Centers: "The City will draw infill development into these areas through revised zoning that promotes neighborhood-scale mixed uses, increased density, smaller setbacks, additional parking waivers, and height bonuses for shared and below-ground parking. Convenient access to transit, and bicycle and pedestrian routes must also be provided."*
- *Enhance the City's Gateways and Streetscapes. "The City should take active steps to enhance the primary gateways into the city." Pages III-1 and III-5.*

**Affirmative finding** for increased density and use of height bonuses. **Affirmative finding** for access to bicycle and pedestrian routes with condition of approval that requires installation of a pedestrian-activated crosswalk light or continuation of the public sidewalk from this site to the intersection of Colchester Avenue.

- *Re: Brownfields: "The Burlington Brownfields Pilot Initiative is a US Environmental Protection Agency program that facilitates redevelopment of properties with real or perceived contamination issues through the assessment of environmental risk, remediation planning, and relief from liability. The City has made the cleanup and redevelopment of Brownfields a high priority to improve the environment, increase the tax base, create and retain jobs, and curb sprawl."*

**Affirmative finding as conditioned. A Phase I and II ESA (if warranted) will be provided, with coordination with the Department of Environmental Conservation to determine a plan for clean-up prior to release of the zoning permit.**

11. *Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability, and location;*

The proposal will provide 57 new housing units, 14 of which will be set aside for low to moderate senior residents of the City. It is anticipated that the one and two bedroom units will be most welcome due to their size, location, and easy access to public transportation. **Affirmative finding.**

*and/or*

12. *Not have an undue adverse impact on the present or projected park and recreation needs of the city.*

Any impact should be substantially offset with the payment of Impact Fees. **Affirmative finding.**

#### **Article 4: Zoning Maps and Districts**

##### **Sec. 4.4.2 Neighborhood Mixed Use Districts**

(a) Purpose: *The NAC-Riverside is intended to allow commercial development in areas already predominantly built along this corridor while encouraging emerging mixed-use development. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be placed behind or to the side of principle buildings.*

The proposal, to construct a large multi-unit residential building, conforms to the intent to allow new development in areas already developed along a major traffic corridor. Although no service or commercial use is proposed, residential uses are permitted within the NAC-R. These new residential units will profit from close proximity to the travel corridor and public transit. Parking is proposed both beneath, and next to the primary structure. **Affirmative finding.**

##### **(b) Dimensional Standards and Density**

**Table 4.4.2-1, Dimensional Standards and Density**

<b>NAC-R</b>	<b>Max Intensity(floor area ration)</b>	<b>Max lot coverage</b>	<b>Minimum Building Setbacks</b>			<b>Height</b>
NAC-R(iverside)	2.0 FAR See bonus provision, below.	80%	0 Front*	0 Side**	0 Rear**	Min 20' two stories Max 35'
110 Riverside Avenue proposal	1.49 per plan dated 8.8.12	51.7%	Approx. 40' from Riverside Avenue	50' east 10' west	150'	45' at elevator shaft
<b>Table 4.4.2-2 Sec. 4.4.2 (d) C., Maximum Bonus)</b>	3.0 FAR					Max height 45'

\*All structures shall be setback 12 feet from the curb on a public street.

\*\* Structures shall be set back a minimum of 15 feet along any property line that abuts a residential zoning district. [In practice, this has only applied to primary structures and not parking areas.]

**Affirmative finding**, using bonus provision.

##### **(c) Permitted and Conditional Uses**

The subject proposal is a conditional use due to its status as a Major Impact development.

##### **(d) District Specific Regulations**

### 3. Development Bonuses/Additional Allowances

#### B. Senior Housing

*A maximum of an additional 10 feet of building height, and corresponding FAR, may be permitted at the discretion of the DRB in the NAC and NAC-Riverside districts where no less than twenty-five per cent (25%) of the total number of onsite units are reserved for low-moderate income senior households as defined by state or federal guidelines, including no less than ten percent (10%) reserved for low-income households. The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.*

The applicant has agreed to dedicate 25% of the proposed (57) residential units to low-moderate seniors, with 10% of those reserved for low-income senior households, to achieve an additional 10' in height and corresponding FAR. The proposal exercises the height bonus within this application. Plan C1 details the gross floor area of the fourth floor (bonus allowance) as 13,066 sq. ft. The required Senior Housing is 25% of the units, or 14 dedicated residential units to exercise the height bonus. This provision states *The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.* Therefore, the gross floor area of the fourth floor shall be less than or equal to the 14 dedicated senior residential units (25% of 57.) The senior housing does not need to be located on the fourth floor; but the gross floor area provided by the height bonus shall be equal to or less than the gross floor area of the dedicated senior units.

The applicant shall provide an annotated floor plan to identify the senior housing units to assure the equivalent gross floor area with the gross floor area achieved through the height bonus. **Affirmative finding as conditioned.**

#### Article 5: Citywide General Regulations

##### *Sec. 5.1.1 Uses*

##### *(c) Permitted Uses*

Per Appendix A, Attached Multi-Family, 3 or more units, is a permitted use in the NAC –R zoning district. **Affirmative finding.**

#### **Part 2: Dimensional Requirements**

See Section 4.4.2 (b), above. **Affirmative finding.**

##### **Sec. 5.1.2 (d) Accessory Residential Structures**

The plan includes an area for trash, but no plans have been submitted for a trash enclosure. This will be a requirement, and subject to Article 6 and review and approval by staff. **Affirmative finding as conditioned.**

##### **Sec. 5.2.3, Lot Coverage Requirements**

See Section 4.4.2 (b), above. **Affirmative finding.**

##### **Sec. 5.2.4, Buildable Area Calculation**

*For any properties two or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district... 110 Riverside Avenue is not over two acres in size nor part of RCO, WRM, RM, WRL, or RL zoning district; but within the NAC-R zoning district. This standard does not apply.*

##### **Sec. 5.2.5, Setbacks**



See Sec. 4.4.2 (b) above. Note that while the easterly property boundary abuts a Residential district, the required 15' setback has only been exercised for primary structures. Parking has been permitted within that setback. **Affirmative finding.**

#### **Sec. 5.2.6, Building Height Limits**

See Sec. 4.4.2 (b) and Sec. 4.4.2 (d). 4. (C), above. **Affirmative finding.**

#### **Sec. 5.2.7, Density and Intensity of Development Calculations**

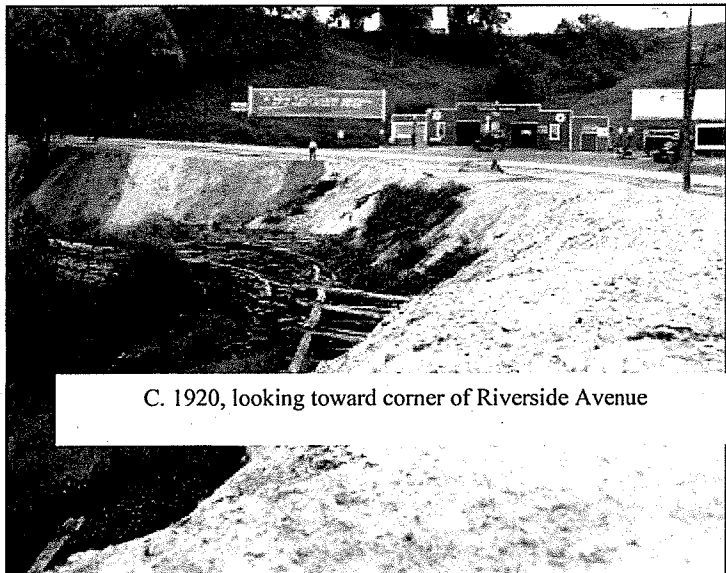
(a) District-specific provisions of Article 4 are based on FAR, not units-per-acre.

##### **(b) Floor Area Ratio**

*In accordance with the district-specific provisions of Article 4 where the intensity of development is measured on a floor area ratio basis, the calculation of development intensity shall be measured by dividing the gross floor area of all structures on a site, or portion of the site where split by a zoning district boundary, by the gross site area.*

For a site of 53,143 square feet (provided on the Engineer's Plan, C2-01), the maximum FAR allowance would be 159,429 sq. ft. (Bonus max 3.0 FAR.) The application proposes 88,772 (69,499 total gross floor area of the building, 19,273 surface parking = 88,772); or 1.67 FAR.

**Affirmative finding.**



C. 1920, looking toward corner of Riverside Avenue

#### **Sec. 5.4.8 Historic Buildings and Sites**

##### **(a) Applicability**

Although the core building is estimated to have been constructed in 1935, significant modifications and alteration (especially loss by fire) have rendered the extant building without historic merit. The building is not listed on any historic register, nor identified as eligible for historic designation. **Affirmative finding.**

#### **Sec. 5.4.9 Brownfield Remediation**

*The City of Burlington encourages the remediation and redevelopment of brownfield sites through the waiver or modification of the requirements of this ordinance in situations where development otherwise authorized by the underlying zoning is constrained due to the presence of surface and subsurface contamination. Specifically, these regulations seek to achieve the following goals:*

- *To promote the public health and safety by remediating contaminated sites that pose a threat to human and environmental health; and*
- *To encourage an efficient pattern of development in Burlington by supporting the redevelopment of previously developed sites.*

##### **(c) Application Submission Requirements:**

*In addition to the submission requirements pursuant to Article 3, the following information as applicable specifying any and all use and development limitations of the site shall also be provided at the time of application:*

1. *A VT DEC Approved Corrective Action Plan (CAP) pursuant to 10 VSA 6615a (h);*

2. *A Record of Decision (ROD) issued by the US EPS;*
3. *A VT DEC Approved Corrective Action Plan (CAP) pursuant to VHWMR 7-105(b); and*
4. *Any warranty deed specifying any and all use and development limitations of the site.*

None of the above specified required submission materials have been submitted.

This parcel is identified with a “star” on the Vermont Department of Environmental Conservation Hazardous Sites map. After lengthy communication with DEC, it was ultimately determined that the site had been misidentified as an existing hazardous site. An official of DEC did remark, however, that given the known use of the parcel as an automobile repair shop since the 1930s, there is a probability of site involvement for contaminants. An overlay of a Sanborn Fire Insurance Map with Google Maps indicates the historic presence of at least 3 underground storage tanks (USTs) on the site. There is no documentation for their present condition, or removal. A Phase I ESA was submitted to staff March 11, 2013, who requested a copy be forwarded to the Department of Environmental Conservation.

Given the historic use of the site, and the proposed redevelopment, review and either approval or direction from Vermont’s DEC for site corrective action needs to be received prior to issuance of a zoning permit. The applicant is obliged to seek appropriate professional guidance in addressing any surface or subsurface contamination.

If the site is deemed a brownfield, the State of Vermont has the authority to require this work be completed under Title 10 VSA 6615b.

If a Corrective Action Plan (CAP) or Site Management Activity Completed (SMAC) is required, these must be developed and implemented prior to redevelopment of the site. All documentation relative to site evaluation and treatment plan, if warranted, needs to be under the direction and with the approval of the Vermont Division for Environmental Conservation and the City Stormwater Engineer.

**Affirmative finding as conditioned.**



#### **Sec. 5.5.1, Nuisance Regulations**

Nothing in the proposal appears to result in creating a nuisance as defined under this criterion.

**Affirmative finding.**

## Sec. 5.5.2 Outdoor Lighting

### Sec. 5.5.2 (e) General Outdoor Lighting Standards

5. *All outdoor lighting fixtures, other than those using only low output lamps and alternative specifically allowed under these regulation, shall be "Full Cut-Off" or "Cut-Off" as defined by the Illuminating Engineering Society of North America to ensure that glare is minimized, that lighting is directed only to the area to be illumination, that illumination is directed below a horizontal plane, and that illumination does not cast direct light beyond the boundaries of the property on which they are located. Light levels on adjacent properties shall not exceed one tenth (0.1) footcandle as a direct result of the on-site lighting measured 20 feet beyond the property line of the development site.*

The submitted photometric plan includes several lighting measurements on the easterly side exceeding the .1 threshold 20' outside the property boundary. Some readings on the west are greater than .1, as are on the northeast (.4) This shall be a condition of approval, and subject to submission of a revised photometric meeting these guidelines. **Affirmative finding as conditioned.**

### 5.5.2 (f) Specific Outdoor Lighting Standards

#### 1. Parking Lot Lighting

- A. *The Maximum mounting height for any fixture shall be 25 ft.*

A detail on the lighting plan (L2-01) indicates "Mounting height varies...up to 30 ft." A maximum mounting height shall meet this standard. **Affirmative finding as conditioned.**

- A. *The maximum illumination level shall not exceed 4 footcandles at any point.*

The lighting plan does not indicate any illumination levels that exceed 4 fc in the parking lot area. The detail on the plan, however, reveals that a maximum illumination on the entire plan is 7.5 fc. Where on the site is not clearly identified. The applicant will need to define that location, and confirm that parking lot lighting meets this standard. **Affirmative finding as conditioned.**

B. *The maximum illumination level shall only be computed for the functional area of the parking lot.*  
A separate illumination level was not submitted for the parking lot area; however the reported levels appear to be within the acceptable limitations of this standard. **Affirmative finding as conditioned.**

- C. *The maximum to minimum uniformity ration shall not exceed 20:1.* The reported ratio is 15:1 per the detail on plan L2-01. **Affirmative finding.**

- D. *Illumination levels are encouraged to be reduced by at least 50% within one hour after the end of public business hours.*

This is a residential development; although there are no public business hours, encouragement shall be offered in the spirit of this standard. **Affirmative finding.**

#### 2. Walkway Lighting:

- A. *The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles. Maximum lighting levels shall not exceed 2 footcandles.*

Several of the photometric readings along the northerly walkway are in excess of the 2 footcandle limitation (2.2, 4.0, 2.5), with the average illumination in excess of the standard. Adjustments need to be made to the lighting at this walkway. **Affirmative finding as conditioned.**

It is noted by staff that a pole mounted light fixture is proposed within the ROW. It is not clear whether this exists or is proposed. Any lighting installation within the public ROW shall be in cooperation, approval and partnership with Burlington Electric Department.



Additionally, catalog identification of lighting fixtures is inconsistent with the Lighting plan specification. Consistency between specs and plan is a requirement; definition is demanded of the applicant.

**Affirmative finding as conditioned.**

**5. Parking Garage Lighting**

- A. *Light Levels shall not exceed minimums recommended in IESNA document RP-20-98 or current edition.*
- B. *Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixture or shall be constructed in a manner that prevents glare to be visible from the exterior of the parking garage.*

No specific parking garage lighting fixture or illumination level information has been submitted. Meeting this standard will be a condition of any approval.

**Affirmative finding as conditioned.**

**Sec. 5.5.3 Stormwater and Erosion Control**

Work associated with development of this site will require review and approval of a small project erosion control form by the Stormwater Administrator. The scope of development is anticipated to be above the ½ acre threshold for requiring a post-construction stormwater management plan. The applicant provided an erosion prevention and sediment control plan (EPSC), as well as a stormwater management plan at application. Approval of these by the City Stormwater Engineer will be a condition of any approval.

**Affirmative finding as conditioned.**

**Sec. 5.5.4 Tree Removal**

The applicant has not defined if any tree removal is proposed or included as part of this development plan. This is particularly important, given the steep slope and potential for erosion at the rear of the site. A tree removal or protection plan may be appropriate. **Affirmative finding as conditioned.**

**Article 6: Development Review Standards**

**Part 1: Land Division Design Standards**

Not applicable.

**Part 2: Site Plan Design Standards**

**Sec. 6.2.2 Review Standards**

**(a) Protection of Important Natural Features:**

There is an existing and significant embankment that rises at the rear of the site. Any application should include information relative to the protection, stabilization, engineered development, or avoidance of the steep grade. A Grading Plan has been provided as part of this application (C2-02.) As site drainage is expected to be altered, confirmation and approval of the City Stormwater Administrator will be essential. As previously noted, a tree removal plan may be appropriate. **Affirmative finding as conditioned.**

**(b) Topographical Alterations:**

Plans illustrate proposed hillside alteration, although minimization of alteration is intended. Significant retaining walls, some 8' in height are proposed. Proposed design and construction details for any cut and

fill, or retaining walls over 3-feet in height, shall be subject to review and approval by the city engineer before receiving approval of the site plan. **Affirmative finding as conditioned.**

**(c) Protection of Important Public Views:**

Not applicable.

**(d) Protection of Important Cultural Resources:**

Although the existing building is greater than 50 years old, it is not acknowledged to be historically sensitive or to retain any characteristics that would merit attentive examination. **Not applicable.**

**(e) Supporting the Use of Renewable Energy Resources:**

The proposed building will back into a site cratered on the south by a large elevation change which will likely hinder opportunity to maximize solar gain. Proposed broad expanses of window glass are likely the limited exercise in capturing solar gain. The Design Advisory Board has recommended the installation of conduit to permit the future use of rooftop solar. **Affirmative finding.**

**(f) Brownfield Sites:**

*Where a proposed development involves a known or suspected brownfield, the site plan shall indicate areas of known or suspected contamination, and the applicant shall identify completed or planned remediation necessary to support the intended use(s).*

110 Riverside Avenue was originally misidentified as Hazardous Site #941733 by the Vermont Department of Environmental Conservation. Since that time, DEC has acknowledged the error, but expressed concern that given the historic use of the site as an automotive service center, there is the potential for site contamination. Sanborn Maps confirm the historic presence of underground storage tanks (USTs; see Sanborn Map overlay above.) An assessment is recommended to explore evidence of any contamination from the longstanding use. A Phase I study was submitted to staff on March 11, 2013, however no research has been identified that would shed light on the disposition of the USTs.

The applicant has submitted an email from Russell W. Barton, indicating the intent to monitor soil excavation activities and collect soil samples. Given the lengthy use as an automotive garage, the common use of pit drains for that use, and the likelihood of extant USTs, further site examination is appropriate. If warranted, a Phase II and Corrective Action Plan / Site Management Action Complete (SMAC) should be in place prior to soil disturbance and site excavation. The applicant shall work either directly or through consultants with the State of Vermont Department of Environmental Conservation to appropriately and adequately address site conditions and document appropriate remediation, if necessary. Conversely, a site evaluation may identify the site as clean and of no concern to further development, which would free the applicant from further investigation and reassure banking interests for financing. The DRB requires that approval or certification from DEC on the suitability of the site as remediated for residential use. Absent that, the applicant shall return to the DRB for further review. **Affirmative finding as conditioned.**

**(g) Provide for nature's events:**

The application includes Stormwater Management and erosion prevention measures. This information has been forwarded to the City Stormwater Engineer to assess and comment upon.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas are required. Balconies would provide some measure of weather protection, as will drive-in parking. The pedestrian entrances on the north elevation and the access door to the south (playground) would benefit from some form of canopy as well.

**Affirmative finding as conditioned.**

**(h) Building Location and Orientation:**

The proposed residential building is “L” shaped, with the backbone facing Riverside Avenue and the base projecting into the southerly hillside. There is a significant Right-of Way expanse of land between the project site and the street, so meeting the required 12’ setback from the public curb does not pose a problem. The developer will be required to work with the Department of Public Works for any work proposed within the ROW. **Affirmative finding as conditioned.**

**(i) Vehicular Access:**

Two curb cuts are proposed: One for direct access to the underground parking area; the other to the small surface parking lot on the east. A modified version of the traffic pattern is accepted: right turn only into the garage at the western curb cut as described in the hearing on March 19, 2013.

See Section 3.5.6 c) 5, above. **Affirmative finding as conditioned.**

**(j) Pedestrian Access:**

Sidewalks are provided to two entrances on the north, and from the building to the playground area on the south. The public sidewalk terminates at the property line on the east; it is not clear how pedestrians can maneuver off-side (no crosswalk within 1900’, no traffic light, the absence of a continuous sidewalk toward Winooski.) The DRB approved either of two options: An extension of the sidewalk on the south side of Riverside Avenue to Colchester Avenue, or alternately, a pedestrian activated crosswalk that would spur a red light for oncoming traffic. **Affirmative finding as conditioned.**

**(k) Accessibility for the Handicapped:**

An internal elevator is proposed to allow access to all levels of the development. Handicapped parking spaces have been identified (although inconsistent on different plans. A1-1 shows parking spaces 10 and 11 to be H/C; plan C1 shows parking space 10 and a surface parking space H/C.) None of the identified handicap parking spaces include a loading areas required by ADA. At least one handicapped parking space is recommended to be located adjacent to the elevator access within the first floor parking area, rather than solely on the surface parking lot.

More than one h/c space is recommended, if not required by the governance of ADA. **Affirmative finding as conditioned.**

**(l) Parking and Circulation:**

For the 57 unit residential building, one space per unit is required. The application proposes 49 spaces within the underground lot, and a 12 space surface parking area on the east of the lot. As this does not meet the 15 space threshold, the standard to provide parking lot shading does not apply. The applicant is certainly encouraged to provide shade in an attempt to reduce the effect of the parking area on the local microclimate, air quality, and stormwater runoff.



The plan proposes 11 compact parking spaces within the underground lot (per plan C1. Plan A1-1 shows 6), which exceed the **15% limitation** under Article 8. **Only 7 compact spaces may be provided.**

Plan A1-1 illustrates optional 5' x 2' storage bins within the parking spaces 5-28. This would render all of those spaces as compact, and therefore unacceptable.

A proposed pedestrian walkway is proposed that provides a physical separation between moving and parked vehicles and pedestrians in a manner that minimizes conflicts and gives pedestrians a safe and unobstructed route to the building entrance and the public sidewalk.

Bicycle parking is provided within the parking garage. The narrative indicates four automotive-sized parking spaces will be dedicated to bike parking, providing 9 bike slots each. Only 3 locations have been identified on Plan A1-1. None are full size spaces or provide secure storage (lockers or similar, as recommended by the Design Advisory Board.) From a use standpoint, the isolated location of bike storage facilities is not commensurate with the anticipated need and likely use of the facilities.

No short-term bike storage/parking is identified on the exterior of the building, which is highly recommended.

All bicycle parking areas is required to link directly to a pedestrian route to a building entrance. All bicycle parking shall be in conformance with applicable design & construction details as provided by the dept. of public works.

For 57 units, **14 long term bicycle parking spaces are required** (one for every 4 units); **6 short term parking spaces** (one for every 10 units.) While a sufficient number of long term spaces appears to be provided within the parking garage area, these are recommended to be locker-style or capable of being locked storage to prevent theft. A rack for short-term bicycle parking is recommended for the exterior, near the sidewalk. **Affirmative finding as conditioned.**

**(m) Landscaping and Fences:**

A list of proposed plantings and a landscaping plan has been submitted. The C2-01 site plan notes removal of a tree fronting Riverside Avenue and removal of wood planters and stone wall. A rain garden is proposed for the northeastern part of the ROW. The Conservation Board noted that the identification, maintenance and retention of the rain garden should be included within the Homeowners Association (HOA) recording (or similar ownership documentation) to prevent the filling-in and removal of the rain garden in the future. The proposed rain garden will drain to the city overflow, into the city system.

Details provided within the submission note concrete block retaining walls, of a maximum height of 8' proposed. Where, the extent of which, and how high at each location will be important for the board to understand. The appearance of such high walls, especially of such dull and uninspiring appearance as stacked solid concrete block, within the context of the existing landscape, may warrant further review. Perhaps a more attractive opportunity exists to soften the harshness of the proposed material, or to better address grade changes more gradually than what is proposed.

Per Sec. 5.2.5 (b) 2, retaining walls are permitted within setbacks; however any wall greater than 3' in height requires approval of the City Engineer.

New or replacement street trees shall be provided consistent with the city's Street Tree Master Plan. All proposed street trees shall be selected and planted in accordance with specifications provided by the city arborist.

No fences appear to be proposed.

**Affirmative finding as conditioned.**

**(n) Public Plazas and Open Space:**

While this is proposed to be a private residential development, the plan includes a play and recreational in the rear (south) for the residents. This is a private area, which will be secure from the street area in visibility and access.

Shadow impacts are not anticipated due to the development being seated into a significant (south) slope; therefore a shadow analysis relative to solar impacts based on sun angle during the Vernal and Autumnal equinox is not likely to be needed. **Affirmative finding.**

**(o) Outdoor Lighting:**

*Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.*

See Section 5.5.2.

**(p) Integrate infrastructure into the design:**

*Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.*

Utility meters/connections shall be illustrated on site plans and building elevations. Plan C2-01 notes removal of existing gas meter; the new location is on the north/east corner of the building. No plan for screening the meter has been provided, and needs to be identified.

The gas meter and any other utility connections should be illustrated on building elevations as well.

Utilities must be undergrounded for all new development.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. A dumpster location is identified on the site plan; no plan for screening has been provided. Additionally, at this location, it will likely pose a problem for a trash hauler to back into that spot to empty the dumpster. An area for recycling needs to be identified as well.

A plan for the dumpster enclosure, enclosed on all four (4) sides to prevent blowing trash, and screened from public view is needed. The applicant should consider something of greater aesthetic than chain link fencing. **Affirmative finding as conditioned.**

*Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.*

If the applicant proposes any HVAC or rooftop equipment, the submission should be augmented with that information and anticipated noise level (dB) of each unit. **Affirmative finding as conditioned.**

## Part 3: Architectural Design Standards

### Sec. 6.3.2 Review Standards

#### (a) Relate development to its environment:

*Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity.*

*The following shall be considered:*

##### 1. *Massing, Height and Scale:*

*While architectural styles or materials may vary within a streetscape, proposed development shall maintain an overall scale similar to that of surrounding buildings, or provide a sensitive transition, where appropriate, to development of a dissimilar scale.*

There are no four story buildings on Riverside Avenue; however the looming embankment that rises to the south and connects to Colchester Avenue/Nash Place alters the perspective of the proposed building.

*Where the zoning encourages greater intensity and larger scale buildings in high density residential and non-residential zoning districts, buildings that are over 3-stories should provide a transition by employing design elements that reduce the apparent building mass from the street level. Taller buildings and elements are most appropriate where they provide a focal point of a terminal view, anchor a street corner, frame view corridors, or relate to larger scaled structures*

The proposed residential building is presented as “layers”; with horizontal elements (materials, colors) that break up the vertical mass. The window alignment accentuates the horizontality of the plan as well. Additionally, the basement/parking level is situated partly below grade, so the full four stories are not readily apparent.

*Buildings should maintain consistent massing and perceived building height at the street level, regardless of the overall bulk or height of the building. Buildings should maintain a relationship to the human scale through the use of architectural elements, variations of proportions and materials, and surface articulations. Large expanses of undifferentiated building wall along the public street or sidewalk shall be avoided. The apparent mass and scale of buildings shall be broken into smaller parts by articulating separate volumes reflecting existing patterns in the streetscape, and should be proportioned to appear more vertical than horizontal in order to avoid monotonous repetition. (See also (d) Provide an active and inviting street edge below.)*

The proposed building has an undulated wall surface that alternates between projecting/receding, articulated with balconies and varying window groupings. The heavy cornice line “caps” the building, providing a strong terminus to the building’s height.

The proposed development site is at a major turn on Riverside Avenue; therefore a visual terminus of a different sort. The building will be clearly visible to travelers from either the north west or north east. In that manner, the building will be monumental as a visual and structural anchor on the Riverside Avenue corridor. **Affirmative finding.**

##### 2. *Roofs and Rooflines.*

*Findings of Fact*



As noted above, the building has a strong cornice line along the proposed flat roof that minimizes the actual structural height. Existing conditions on Riverside Avenue are a mixture of development styles and patterns. A flat-roofed building would not be out-of-place at this location.

*Roof-top mechanicals shall be screened from view from the public street, and should be incorporated into and hidden within the roof structure whenever possible.*

None have been identified; however if any are proposed, it is unlikely that they will be visible from the pedestrian way due to the building's siting and height.

*Solar panels, light colored ballast or roof membranes, split roof clerestories, planted or "green" roof technologies (with a clearly articulated maintenance plan) and "gray water" collection are encouraged. Active rooftop uses are also encouraged to add to the visual complexity and activity of the city's skyline, and afford public access to otherwise unseen views of the city and surrounding landscape.*

A working rooftop is encouraged; specifically for stormwater retention/mitigation or for solar collection. The Design Advisory Board has recommended installation of conduit to allow the future inclusion of solar technology. The applicant is encouraged to explore all options. **Affirmative finding.**

### **3. Building Openings**

*Principal entrances shall be clearly defined and readily identifiable from a public street whether by a door, a canopy, porch, or other prominent architectural or landscape features. People with physical challenges should be able to use the same entrance as everyone-else and shall be provided an "accessible route" to the building. Attention shall also be accorded to design features which provide protection from the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage.*

There are several pedestrian access points: Two on the north (street) elevation, one on the west, one through the east (parking entrance), and one on the rear for access to the play space. There is a feel of polite entry on the north elevation, if the proposed landscaping is installed and the access walkway is permitted to be constructed within the public ROW (This needs to be confirmed with officials from the Department of Public Works.) Plan A6 suggests that handicap access may be made through the main (front) door; however the color illustration accompanying the plans show access steps at this entrance. Confirmation is needed.

*Window openings shall maintain consistent patterns and proportions appropriate to the use. The window pattern should add variety and interest to the architecture, and be proportioned to appear more vertical than horizontal. Where awnings over windows or doors are used, the lowest edge of the awning shall be at least eight (8) feet above any pedestrian way, and shall not encroach into the public right-of-way without an encroachment permit issued by the dept. of public works.*

The proposed window arrangement displays a rhythm and cadence that break up the building mass yet provide needed daylight to the residences. No awnings are illustrated on the plan, or any building mass that encroaches into the public right-of-way. Much of the site development to the north, however, is within the ROW. Agreement needs to be reached with the department of public works about the feasibility of completing this work (pedestrian walkways, plantings, curbing, utility locations).

*Buildings placed on a side or rear property line where no setback is required shall contain neither doors nor windows along such façade so as not to restrict future development or re-development options of the*

*adjacent property due to fire safety code restrictions. Otherwise they should be setback a minimum of 5-feet.*

While no setbacks may be required within the NAC-R district, a 15' setback is required for any development that abuts a residential zoning district. This is the case on all but one property line of 110 Riverside Avenue.

The building along the westerly portion of the site, appears to be set back at least 5' from the property line. This elevation is proposed to have both windows and a door, which is acceptable per this standard. **Affirmative finding as conditioned.**

**(b) Protection of Important Architectural Resources:**

The existing buildings on the site have no documented architectural significance or merit; therefore this standard does not apply. Not applicable.

**(c) Protection of Important Public Views:**

There are no protected public views from this site. Not applicable.

**(d) Provide an active and inviting street edge:**

*Building facades shall be varied along the street edge by the integration of architectural features, building materials, or physical step-backs of the façade along its length. Large expanses of undifferentiated building wall shall be avoided. This may be accomplished by incorporating fenestration patterns, bays, horizontal and vertical façade articulations, the rhythm of openings and prominent architectural features such as porches, patios, bays, articulated bases, stepping back an elevation relative to surrounding structures, and other street level details. The use of traditional facade components such as parapet caps, cornices, storefronts, awnings, canopies, transoms, kick plates, and recessed entries are highly encouraged. In areas where high volumes of pedestrian traffic are desired, the use of architectural recesses and articulations at the street-level are particularly important in order to facilitate the flow of pedestrian traffic.*

As previously noted, the proposed building exercises a variety of methods to provide interest: varying materials, planes, recesses, balconies, material colors, window arrangements, and a heavy cornice line.

*Buildings in downtown districts that provide open space by way of building setbacks at the ground level shall utilize landscaping, street furniture, public art, sitting walls, fountains, etc. to maintain a sense of the existing street wall, define a sense of entry for the building and create a space that enhances the pedestrian's experience.*

Although this is within the NAC-R corridor rather than the downtown, the broad setback due to an extraordinarily large public ROW offers the possibility of providing similar amenities: benches, plantings, public art, or sitting walls. The applicant is encouraged to work with the Department of Public Works to maximize the potential for a comfortable residential structure at this very visible corner.

*Urban "open" space shall maximize accessibility for all individuals including the disabled, and encourage social interaction.*

Plans detail handicap curb ramps within the public ROW. Confirmation that all pedestrian access walks and at least one building entrance is h/c accessible is required. **Affirmative finding as conditioned.**

**(e) Quality of materials:**

*All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.*

The principle building elevation (north) is proposed to be brick veneer, standing seam, vertical metal siding, and vinyl siding. Vinyl has been proposed for much of the rest of the building, particularly those areas not readily visible from the street. Contemplating this proposal, one has only to look around Burlington at buildings that were constructed, even for investment purposes, intended to last for many generations. Quite simply, a material like vinyl, which tends to look tired after 10 years and quite disagreeable after 20 years, is not appropriate on a building that should be intended for many decades, if not generations. Vinyl does not enjoy the durability or beauty of other materials, and is not considered to be of a quality that should be entertained on such a visible street corner. Brick and metal are appropriate and acceptable. The applicant should consider another material of greater durability and beauty, perhaps cement composite or alternate that has a life expectancy to match that of the intended structure.

The DAB included an allowance for differing material on the rear elevation, recommending a more substantial clapboard material on visible elevations and within the balconies; but encouraged consistency throughout.

The DAB also favored metal railings rather than the proposed vinyl, which they indicated, combined with vinyl siding and vinyl windows were contributing toward an overall and unfavorable “public housing” appearance.

The Development Review Board does not accept vinyl siding for the proposed development. The applicant shall be required to return to the DRB for review of another more acceptable material.

Window specs define proposed double hung vinyl windows. No door specs were submitted. **Affirmative finding as conditioned.**

**(f) Reduce energy utilization:**

*New structures should incorporate the best available technologies and materials in order to maximize energy efficient design. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.*

*New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practicable, in order to provide opportunities for the use of active and passive solar utilization.*

New construction will be required to meet the above noted Guidelines for Energy Efficient Construction. As previously noted, solar access is encouraged. The DAB has recommended installation of conduit to allow for its future exercise. **Affirmative finding as conditioned.**

**(g) Make advertising features complementary to the site:**

No signage is included within this application. Any signs will require a separate sign permit. **Affirmative finding as conditioned.**

**(h) Integrate infrastructure into the building design:**

See Section 6.2.2. (p) above.

**(i) Make spaces secure and safe:**

*Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit, and intercom systems for multi-family housing should be incorporated where possible, to maximize personal safety.*

All requirements for building ingress and egress shall meet the approval of the building inspector and fire marshal.

An intercom system for resident safety is encouraged per this standard.

**Affirmative finding if conditioned.**

**Article 7: Signs**

No signage is proposed. Any signage will require a separate sign permit. **Affirmative finding if conditioned.**

**Article 8: Parking**

This is a Shared-Use Parking District. Per Table 8.1.8-1, 1 parking space is required per residential unit. With 57 units proposed, 57 parking spaces will be required. The application proposes 61 parking spaces. Overall the application appears to be adequate in the number of parking spaces, but there remain a few problems. The minimum back-up length (24', as noted in **Table 8.1.11-1, Minimum Parking Dimensions**) does not appear to be available in the easterly under-ground parking area. Scaled from the submitted site plan, the back-up area appears to be 20-21 feet at this location. Additionally, some of the parking spaces are undersized based on the above noted minimum parking dimensions (those located at building jogs) or lack any back-up space at all (last parking space on the south/west corner.) As there is adequate parking provided when exterior spaces are considered, some of these "odd" undersized interior spaces may be delegated to lockable bicycle storage. (See Sec. 8.2.5, below.) **Affirmative finding as conditioned.**

**Sec. 8.1.9 Maximum Parking Spaces**

*The total number of parking spaces provided in all parking districts shall not be more than 125% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in Table 8.1.8-1.*

This is not the Neighborhood Parking District, but the Shared Use Parking District.

**(a) Exemptions**

1. **Structured parking:** *Spaces provided within the footprint of a structure containing one or more other uses, including rooftop, at-grade, or below grade spaces shall not be counted towards the maximum, provided the floor area dedicated to parking is less than 50% of the total gross floor area of the structure.*

The provided parking is less than 50% of the total gross floor area of the structure; therefore the project is exempt from the maximum parking spaces accounting. **Not applicable.**

## Sec. 8.2.5 Bicycle Parking Requirements

### Table 8.2.5-1

Long Term Bicycle Parking requirement = 1 for every 4 units

Short Term Bicycle Parking requirement = 1/10 units.

For **57 units**, requirement will be **14 long term** bicycle parking spaces, **6 short term** bicycle spaces. The location of these bicycle parking / storage areas has been identified on the parking lot (floor) plan, with 3 dedicated areas for secure bicycle parking. At the DAB it was presented that an average (car) parking space would fit 9 bicycles for storage. The application appears to exceed the required number of long term bicycle parking spaces. The DAB noted that the bicycle parking plan, as presented, was acceptable and that they encourage lockable, enclosed/secure bicycle parking to deter theft.

A short term bicycle parking location to meet the required 6 short term parking spaces is encouraged for the exterior; adjacent to the pedestrian path. **Affirmative finding as conditioned.**

## Article 9: Inclusionary and Replacement Housing

(See Section 9.1.6, below)

The applicant proposes exercising the opportunity for a height and FAR bonus for providing senior housing. To exercise the height and FAR bonus, 25%, or **14 units will have to be dedicated to senior housing**. The applicant is encouraged to have early discussion with the housing representative from the Community and Economic Development Office, to determine the level of affordability, and whether any bonus provisions or waivers from Impact Fees will apply. In any case, the project must provide 14 senior units (25% of 57 units) to achieve the height bonus (up to 45'), with 10% of the total reserved for low-income households. As previously noted under Sec. 4.4.2 (d) 3.B., the total gross floor area dedicated to the additional senior housing shall be equivalent to the gross floor area resulting from the additional allowance.

**Affirmative finding as conditioned.**

## Sec. 9.1.6 Exemptions

*Exempt from the requirements of this article are:*

c) *Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.* The redevelopment of 110 Riverside Avenue, proposed to exercise the Senior Housing (height) bonus, is therefore exempt from the requirements of Article 9. Income requirements for affected units, however, shall remain per Sec. 4.4.2 (d) 3. B., Senior Housing. **Affirmative finding as conditioned.**

## IV. Conditions of approval:

1. Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

*(a) New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof.*

Fees shall be as noted in Sec. 3.3.2 and 3.3.3, unless revised to reflect a change in the total gross square footage of the development or to reflect the appropriateness of Impact Fee waivers or reductions. Any request for waivers or reductions of Impact Fees shall be accompanied by a Certificate of Inclusionary Housing Compliance issued by the manager of the city's Housing Trust Fund, confirming applicability for any such waiver or reduction, and providing the Square foot calculation benefiting from the waiver.

2. The applicant shall provide either documentation to substantiate the submitted estimated construction cost, or a more accurate figure based upon the RS Means Construction Cost catalogue or similar. Any



additional application or development review fees incurred as a result of cost estimation adjustment shall be paid **prior to release of any zoning permit.**

3. Any signage will require a separate sign permit.
4. **Prior to release of the zoning permit**, the development plan, including site stabilization, retaining walls, stormwater, and erosion prevention and sediment control (EPSC) and Stormwater Management plans, shall be approved in writing by the City Stormwater Engineer or building inspector, as appropriate.
5. A State Wastewater Permit will be required for water and sewer service. It is the obligation of the owner/applicant to seek this and any other required additional permits.
6. The project must provide **14 low to moderate income senior housing units, (25% of 57), with not less than 10% of those (6) reserved for low-income households** to secure the building height bonus identified in *Sec. 4.4.2 (d) 3. B; Senior Housing* (up to 45'.)

Although the development is exempt per Article 9 for Inclusionary Housing (See Article 9, Sec.

9.1.6), income eligibility for reserved senior units shall remain. Per the Housing Trust Fund officer:

Under the Senior Housing bonus, 10% of the units are affordable to and occupied by low-income households (80% Area Median Income), and another 15% are affordable to and occupied by moderate-income households (100% of AMI). Article 9 Inclusionary Housing requires at least 15% of the units be affordable to and occupied by households at 65% of AMI.

Compliance will be monitored by the Housing officer.

7. **Prior to release of the zoning permit**, the applicant will submit or cause to submit a floor plan with area calculation to confirm that the gross floor area recognized by the height bonus (fourth floor) is less than or equal to the gross floor area reserved for senior housing.
8. The DRB accepts and approves the proposed pedestrian crossing with the pedestrian activated flashing light signal as described by the applicant. The applicant shall use the modified traffic and circulation plan submitted at the second public hearing, including the limited access westerly entrance into the garage with stops signs and gate to control improper use.
9. Any demolition, site disturbance, development or other work on the site shall be in concert with the Vermont Department of Environmental Conservation. The DRB requires approval or certification from the Vermont Department of Environmental Conservation (DEC) on the suitability of the site as remediated for residential use. Absent that, the applicant shall return to the DRB for further review. Any site remediation, which may include Site Management Activity Completion (SMAC) shall be defined by and coordinated by the Vermont Department of Environmental Conservation.
10. The Maximum mounting height for any lighting fixture shall be 25 ft.
11. The maximum illumination level within the parking lot shall not exceed 4 footcandles at any point.
12. Illumination levels of the parking lot are encouraged to be reduced by at least 50% within one hour after the end of public business hours.
13. The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles. Maximum lighting levels shall not exceed 2 footcandles. A revised lighting plan/photometric shall be provided to staff to confirm adjustments to meet this standard **prior to release of the zoning permit.**
14. Light levels on adjacent properties shall not exceed one tenth (0.1) footcandle as a direct result of the on-site lighting measured 20 feet beyond the property line of the development site. This shall be confirmed with photometric readings that include those adjacent areas within the specified 20' of all property boundaries **prior to release of the zoning permit.**
15. Specifications for lighting fixtures shall be consistent with fixtures noted on the lighting plan.

16. Light Levels within the parking garage shall not exceed minimums recommended in IESNA document RP-20-98 or current edition. This shall be demonstrated **prior to release of the zoning permit.**
17. Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixture or shall be constructed in a manner that prevents glare to be visible from the exterior of the parking garage. This shall be demonstrated **prior to release of the zoning permit.**
18. The applicant shall define any tree removal, especially as it relates to trees that may provide stabilization on the rear slope vulnerable to erosion. If appropriate, a tree removal or protection plan shall be submitted per Sec. 5.5.4.
19. Proposed design and construction details for any cut and fill, or retaining walls over 3-feet in height, shall be subject to review and written approval by the city engineer **prior to release of the zoning permit.**
20. There will be consistency in plan for identification of handicap parking spaces. All handicap parking spaces will meet ADA guidelines for size and required loading area.
21. Internal bicycle storage shall be provided to accommodate at least **14 long term bicycle parking spaces.** It is highly recommended that these are locker-style or secure/lockable storage units to prevent theft. Per the ordinance, **6 short term bicycle parking spaces** are required as well (1/10 units.) A bicycle rack for short term bicycle parking shall be located on the exterior of the building, and identified on the site plan. A short term bicycle parking location to meet the required 6 short term parking spaces is encouraged for the exterior; adjacent to and a direct connection to the pedestrian path.
22. New or replacement street trees shall be provided consistent with the city's Street Tree Master Plan. All proposed street trees shall be selected and planted in accordance with specifications provided by the city arborist.
23. If HVAC or rooftop equipment is proposed, the submission should be augmented with that information (including any additional height, which would apply toward overall building height limitation) with anticipated noise level (dB) of each unit. **This information shall be provided prior to decision and subject to review and approval of the DRB.**
24. Utility meters/connections shall be illustrated on site plans and building elevations.
25. The manner of trash enclosure shall be submitted for review and approval by staff **prior to release of the zoning permit.** Thoughtful consideration of performance as well as aesthetic will be expected.
26. An area for recycling must be identified **prior to release of the zoning permit.**
27. The applicant/owner will work in junction and agreement with the Department of Public Works in the development of any part of this project within the public right-of-way, including but not limited to lighting, sidewalk installation, utilities, landscaping, etc.
28. Balcony and other railings will be metal.
29. The DRB accepts the proposed siding on the north, south, east and west that are defined as brick, metal, wood clapboard or composite clapboard, including within the balcony areas. The DRB also approves vinyl siding on the rear elevation with Azek molding and trim, as proposed, **but require a revised elevation with colors,** taking into account Azek or similar may not hold a dark color well, and advised not to be painted dark. Color selection should serve the purpose of breaking up the wall and be a color differentiated from the vinyl siding. The revised elevation shall be submitted prior to **release of the zoning permit.**  
[Azek material identified on plans, but material not specific to brand name.]
30. Door specs will be submitted **prior to release of the zoning permit.**

31. Conflict exists between the color illustration accompanying the submission, and the plan on A6, which shows stairs in front of the primary entrance. Confirmation that all pedestrian access walks and at least one building entrance is h/c accessible is required.
32. Illustrations shall be corrected to reflect stairways that descend to ground on the westerly elevation.
33. Standard Permit Conditions 1-15.

**Second:** Brad Rabinowitz

**Vote:** 6-0

**Vote:** motion carried

[See attached transcript of deliberative hearing to reconsider Conditions #8 and #29.]

Dated at Burlington, Vermont, this 2<sup>nd</sup> day of July, 2013.

Respectfully Submitted,

  
Austin Hart, Development Review Board Chair

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**Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinance Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court within 30 days of the date of the written decision as follows:**

**(a) Notice of Appeal:** The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.)

**ZP 13-0650CA/MA**

**110 Riverside Avenue**

**Reconsideration of conditions #8 and #29**

**DRB Deliberative June 24, 2013:**

Board members present: Austin Hart, Michael Long, Jim Drummond, Brad Rabinowitz, Kevin Stapleton, Ali Zipparo, and Jonathan Stevens.

Staff present: Ken Lerner, Mary O'Neil, Kim Sturtevant.

**Motion by Austin Hart** (relative to pedestrian crossing signal, Condition #8):

I move that we approve the proposed pedestrian crossing with the pedestrian activated flashing light signal as described by the applicant.

2<sup>nd</sup>: Jim Drummond

Vote 4-3 (Ali Zipparo, Jonathan Stevens, Michael Long dissenting.)

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**Motion by Austin Hart** (relative to siding; condition #29):

I move we approve the revised elevation showing the vinyl siding on the rear elevation with Azek molding and trim, as proposed, but require a revised elevation with colors, taking into account Azek or similar may not hold a dark color well, and advised not to be painted dark. Color selection should serve the purpose of breaking up the wall and be a color differentiated from the vinyl siding.

[Azek material identified on plans, but material not specific to brand name.]

2<sup>nd</sup> – Brad Rabinowitz

Vote 4-3 (Ali Zipparo, Jonathan Stevens, Michael Long dissenting.)